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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,108	04/21/2005	Kazunori Kurita	P08616US00/BAS	9052
881	7590	10/16/2007	EXAMINER	
STITES & HARBISON PLLC 1199 NORTH FAIRFAX STREET SUITE 900 ALEXANDRIA, VA 22314			CHUI, MEI PING	
			ART UNIT	PAPER NUMBER
			1616	
			MAIL DATE	DELIVERY MODE
			10/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/532,108

**Applicant(s)**

KURITA ET AL.

**Examiner**

Helen Mei-Ping Chui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date N/A.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Status of Action***

The Examiner acknowledges receipt of application number 10/532,108 filed on 04/21/2005. Claims 1-11 are presented for examination on the merits for patentability.

### ***Claims Objection***

**Claims 6-11** are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

**Claims 3-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. All dependent claims are included in this rejection.**

Claim 3 recites the limitation “the fatty acid alkaline metal salt is one of sodium or potassium salt of the fatty acid”. It is unclear that whether the metal salt of the fatty acid in claim 3 is an alkaline metal, i.e. magnesium or calcium, or is an alkali metal, i.e. sodium or potassium; therefore, one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Thus it renders the claim indefinite.

Claim 4 recites the limitation “the metal salt according to claim 1 or 2 comprises a mixture of sodium salts of fatty acids”. Since claim 2 recites the metal salt either is an alkaline or not an alkaline, it is also unclear which metal salt, an alkaline or not an alkaline, Applicant is referring to.

Claim 5 recites the limitation “the fatty acid metal salt having a solubility in water of 100 ppm or less according to claim 2” comprises one or a mixture of lithium salt, barium salt, magnesium salt, calcium salt or zinc salt. However, claim 2 recites that the metal salt of fatty acid having solubility in water of 100 ppm excludes alkaline metal salt. Therefore, it is unclear whether the metal salt, recited in claim 5, is a single type of metal salt or a mixture of alkali and alkaline metal salt.

Claims 6-11 are rejected because they can depend from claims 3-5; thus incorporate their limitation.

***Claim Rejection - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(b) that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishi et al. (U. S. Patent No. 6,620,421).**

**With respect to claim 1**, Nishi et al. disclose a water dispersible granule for crops application, which has a high disintegrability in water, comprising a pesticidally active ingredient, a surfactant, a metal salt fatty acid having 6 to 18 carbon atoms (column 5, line 11; column 6, line 62-63; line 56-57; column 7, line 8-13 and column 8, line 15-17 and 20-21). Therefore, instant claim 1 is anticipated.

**With respect to claims 2-5 and 10**, Nishi et al. also disclose that solid form of metal salts of fatty acid having 10 or more carbon atoms, i.e. capric acid, lauric acid, stearic acid and oleic acid (column 8, line 13-15). Nishi et al. also disclose that the liquid form of metal salts of fatty acid having 6 to 9 carbon atoms, i.e. caproic acid, caprylic acid and pelargonic acid (column 8, line 20-22).

Nishi et al. also disclose that the metal of the fatty acid salts are sodium, calcium, magnesium, barium and zinc (column 8, line 15-17). Nishi et al. further disclose that the concentration of said metal salts of fatty acid is present in an amount of 10 % or less by weight of the granule (column 8, line 25-26). Therefore, instant claims 2-5 and 10 are anticipated.

**With respect to claims 6 and 9**, Nishi et al. disclose that the surfactant, i.e. alkylsulfate, alkylaryl sulfonate, alkenylsulfonate or ligninsulfonate, is used alone or in combination with two

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or more of it. Nishi et al. also disclose that the surfactant is present in an amount of 40 % or less by weight of the granule (column 7, line 8-18). Therefore, instant claims 6 and 9 are anticipated.

**With respect to claims 7 and 11**, Nishi et al. disclose that the granule also comprises a water insoluble carrier, i.e. diatomaceous earth or attapalgite, in an amount of 70 % or less by weight (column 6, line 50-61). Therefore, instant claims 6 and 9 are anticipated.

**With respect to claim 8**, Nishi et al. disclose that the granule comprises a pesticidally active ingredient in an amount of 1 to 75 % by weight (column 5, line 11-14). Therefore, instant claim 8 is anticipated.

### ***Conclusion***

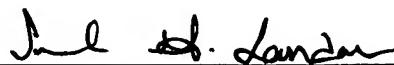
No claims are allowed.

### ***Contact Information***

Any inquiry concerning this communication from the Examiner should direct to Helen Mei-Ping Chui whose telephone number is 571-272-9078. The examiner can normally be reached on Monday-Thursday (7:30 am – 5:00 pm). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where the application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either PRIVATE PAIR or PUBLIC PAIR. Status information for unpublished applications is available through PRIVATE PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the PRIVATE PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sharmila Gollamudi Landau

Primary Examiner

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